

SABRINA G. WIBICKI, ESQ.  
Nevada Bar No. 10669  
ATKINSON WATKINS & HOFFMANN, LLP  
10789 W. Twain Avenue, Suite 100  
Las Vegas, Nevada 89135  
Telephone: 702-562-6000  
Facsimile: 702-562-6066  
[swibicki@awhlawyers.com](mailto:swibicki@awhlawyers.com)  
*Attorneys for Plaintiffs*

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

EARL BRAXTON and VIRGINIA  
BRAXTON,

Case No.:

**Plaintiffs,**

Y.

MOSHIR ELHABBAL; ES EXPRESS LINES, INC.; DOE INDIVIDUALS I through X, inclusive; and ROE CORPORATIONS I through X, inclusive,

### Demand for Trial by Jury

## Defendants.

## **COMPLAINT**

COME NOW, Plaintiffs EARL BRAXTON and VIRGINIA BRAXTON (hereinafter collectively referred to as "Plaintiffs"), by and through their counsel of record, the law firm of Atkinson Watkins & Hoffmann, LLP, and for their Complaint on file herein alleges as follows:

## I. PARTIES

1. Plaintiff EARL BRAXTON is, and at all times relevant herein was, a resident of Clark County, Nevada.
2. Plaintiff VIRGINIA BRAXTON is, and at all times relevant herein was, a resident of Clark County, Nevada.

1       3.     Defendant MOSHIR ELHABBAL (hereinafter referred to as "ELHABBAL") is,  
2 and at all times relevant herein was, a resident of Onondaga County, New York.

3       4.     Defendant ES EXPRESS LINES, INC. (hereinafter referred to as "ES EXPRESS  
4 LINES") (hereinafter collectively with ELHABBAL referred to as "Defendants") is and was, at all  
5 times relevant herein, a corporation licensed to do business in Clark County, Nevada.

6       5.     The true names and capacities, whether individual, corporate, associate or  
7 otherwise, of DOE INDIVIDUALS I through X, inclusive, and ROE CORPORATIONS I through  
8 X, inclusive, are unknown to Plaintiffs at this time and, therefore, Plaintiffs sue these Defendants  
9 by such fictitious names. Plaintiffs will ask for leave of this Honorable Court to file an Amended  
10 Complaint to insert the true names of the Defendants when the true names have been ascertained.

11      6.     Plaintiffs are informed and believe and, on that basis, allege that each of the  
12 fictitiously named Defendants are responsible in some manner for the events and happenings  
13 referred to as herein alleged, including, but not limited to, owning, maintaining, and/or controlling  
14 Defendant ELHABBAL's vehicle on July 9, 2015.  
15

16

**II.  
JURISDICTION AND VENUE**

17      7.     This Court has jurisdiction over this controversy pursuant to 28 U.S.C. § 1332  
18 because there is complete diversity of citizenship and because the amount in controversy exceeds  
19 \$75,000, exclusive of interest and costs.  
20

21      8.     Venue is appropriate in this Court pursuant to 28 U.S.C. § 1391(a) because a  
22 substantial portion of the events giving rise to this controversy occurred in Nevada.  
23

24

**III.  
GENERAL ALLEGATIONS**

25      9.     Plaintiffs repeat and reallege each and every allegation contained in Paragraphs 1  
26 through 8 herein above and incorporate the same by reference as though fully set forth herein.  
27

1       10. Plaintiffs were the owners, operators and/or occupants of a 2007 Chrysler Aspen  
2 Limited, which was towing certain U-Haul equipment, on July 9, 2015.

3       11. Defendant ELHABBAL was the operator of a Volvo semi-truck owned by ES  
4 EXPRESS LINES on July 9, 2015.

5       12. On July 9, 2015, Plaintiffs were traveling northbound on the I-15 highway just  
6 outside of Primm, Nevada.

7       13. Defendant ELHABBAL was driving behind Plaintiffs, also traveling northbound  
8 on the I-15 highway just outside of Primm, Nevada.

9       14. Defendant ELHABBAL failed to use due care and caused the front of his vehicle to  
10 strike the back of Plaintiffs' vehicle and/or towing equipment.

11       15. As a direct result of Defendant ELHABBAL's actions, Plaintiffs suffered property  
12 damage and severe personal injuries.

13                  IV.  
14                      **FIRST CLAIM FOR RELIEF**  
15                      **(Negligence Against Defendant ELHABBAL and Defendant ES EXPRESS LINES)**

16       16. Plaintiffs repeat and reallege each and every allegation contained in Paragraphs 1  
17 through 15 herein above and incorporate the same by reference as though fully set forth herein.

18       17. Defendant ELHABBAL owed a duty to Plaintiffs to operate his vehicle in a  
19 negligent-free manner.

20       18. Defendant ELHABBAL, while in the course and scope of his employment with  
21 Defendant ES EXPRESS LINES, breached that duty by failing to use due care, causing the front  
22 of his vehicle to strike the back of Plaintiffs' vehicle.

23       19. Defendant ELHABBAL's breach caused the personal injuries complained of herein  
24 by Plaintiffs.

25       ...  
26  
27  
28

20. As a direct result of Defendant ELHABBAL's negligence, occurring while in the course and scope of his employment with Defendant ES EXPRESS LINES, Plaintiffs have incurred, and will continue to incur, expenses for medical care and treatment in an amount in excess of \$75,000.

21. As a further direct and proximate result of Defendant ELHABBAL's negligence, occurring while in the course and scope of his employment with Defendant ES EXPRESS LINES, Plaintiffs have incurred, and will continue to incur, pain and suffering and emotional distress.

22. As a further direct and proximate result of Defendant ELHABBAL's negligence, occurring while in the course and scope of his employment with Defendant ES EXPRESS LINES, Plaintiffs have been required to retain an attorney to prosecute this action and are entitled to an award of attorney's fees and costs.

**V.**

23. Plaintiffs repeat and reallege each and every allegation contained in Paragraphs 1 through 22 herein above and incorporate the same by reference as though fully set forth herein.

24. Defendant ES EXPRESS LINES is responsible for the negligent actions of Defendant ELHABBAL as described herein.

25. At all times relevant hereto, Defendant ELHABBAL operated the vehicle owned by Defendant ES EXPRESS LINES under the responsibility of Defendant ES EXPRESS LINES.

26. As a direct result of the above-mentioned negligence of Defendant ES EXPRESS LINES, Plaintiffs have suffered severe personal injuries.

27. The injuries and damages sustained by Plaintiffs are the direct and proximate result of the negligence of Defendant ES EXPRESS LINES.

28. As a further direct and proximate result of Defendant ES EXPRESS LINES' negligence, Plaintiffs have incurred expenses for medical care and treatment in an amount in excess of \$75,000.

29. As a further direct and proximate result of Defendant ES EXPRESS LINES' negligence, Plaintiffs have incurred, and will continue to incur, pain and suffering and emotional distress.

30. As a further direct and proximate result of Defendant ES EXPRESS LINES' negligence, Plaintiff has been required to retain an attorney to prosecute this action and are entitled to an award of attorney's fees and costs.

**VI.**

31. Plaintiffs repeat and reallege each and every allegation contained in Paragraphs 1 through 30 herein above and incorporate the same by reference as though fully set forth herein.

32. At all times relevant herein, Defendant ELHABBAL was an agent, servant and/or employee of Defendant ES EXPRESS LINES and, at all times herein mentioned, was acting within the scope of employment with the knowledge, permission and consent of his employer, Defendant ES EXPRESS LINES. Therefore, Defendant ES EXPRESS LINES is responsible and liable for all of Defendant ELHABBAL's negligent conduct under the theory of respondeat superior.

33. As a direct result of the above-mentioned negligence of Defendant ES EXPRESS LINES, Plaintiffs have suffered severe personal injuries.

34. The injuries and damages sustained by Plaintiffs are the direct and proximate result of the negligence of Defendant ES EXPRESS LINES.

35. As a further direct and proximate result of Defendant ES EXPRESS LINES' negligence, Plaintiffs have incurred expenses for medical care and treatment in an amount in excess

1 of \$75,000.

2 36. As a further direct and proximate result of Defendant ES EXPRESS LINES'  
4 negligence, Plaintiffs have incurred, and will continue to incur, mental, pain and suffering and  
emotional distress.

5 37. As a further direct and proximate result of Defendant ES EXPRESS LINES'  
6 negligence, Plaintiffs have been required to retain an attorney to prosecute this action and are  
7 entitled to an award of attorney's fees and costs.

8 **VII.**

9 **FOURTH CLAIM OF RELIEF**

10 **(Negligent Hiring/Training/Supervision Against Defendant ES EXPRESS LINES)**

11 38. Plaintiffs repeat and reallege each and every allegation contained in Paragraphs 1  
12 through 37 herein above and incorporate the same by reference as though fully set forth herein.

13 39. Defendant ES EXPRESS LINES had a duty to exercise due care in the selection,  
14 training, supervision, oversight, direction, retention and control of their employees and/or agents  
15 retained by them. Defendant ES EXPRESS LINES held a duty of hiring, training, supervising, and  
16 enforcing policies and procedures in compliance with state law.  
17

18 40. Defendant ES EXPRESS LINES breached the above-referenced duties when they  
19 negligently, carelessly, and recklessly hired, trained, supervised, oversaw, directed, and/or retained  
20 Defendant ELHABBAL.

21 41. As a direct result of the above-mentioned negligence of Defendant ES EXPRESS  
22 LINES, Plaintiffs have suffered severe personal injuries.

23 42. The injuries and damages sustained by Plaintiffs are the direct and proximate result  
24 of the negligence of Defendant ES EXPRESS LINES.

25 43. As a further direct and proximate result of Defendant ES EXPRESS LINES'  
26 negligence, Plaintiffs have incurred expenses for medical care and treatment in an amount in excess  
27

1 of \$75,000.

2 44. As a further direct and proximate result of Defendant ES EXPRESS LINES'  
3 negligence, Plaintiffs have incurred, and will continue to incur, pain and suffering and emotional  
4 distress.

5 45. As a further direct and proximate result of Defendant ES EXPRESS LINES'  
6 negligence, Plaintiffs have been required to retain an attorney to prosecute this action and are  
7 entitled to an award of attorney's fees and costs.

8 WHEREFORE, Plaintiffs pray as follows:

9 1. For general, compensatory, and consequential damages against Defendants in an  
10 amount in excess of \$75,000;

12 2. For pre-judgment and post-judgment interest thereon at the highest legal rate;

13 3. Attorneys' fees and costs of suit incurred herein; and

14 4. For such other and further relief as this Honorable Court may deem proper under  
15 the circumstances.

16 DATED this 30<sup>th</sup> day of June, 2017.

17 18 ATKINSON WATKINS & HOFFMANN, LLP

19 /s/ Sabrina G. Wibicki

20 SABRINA G. WIBICKI, ESQ.  
21 Nevada Bar No. 10669  
22 10789 W. Twain Avenue, Suite 100  
Las Vegas, Nevada 89135  
*Attorneys for Plaintiffs*